

UNITED STATES  
DEPARTMENT OF ENERGY

COMMENTS OF THE MODESTO IRRIGATION DISTRICT  
IN RESPONSE TO NOTICE OF INQUIRY  
INTERSTATE ELECTRIC TRANSMISSION SYSTEM;  
ELECTRIC RELIABILITY ISSUES

**Question No.1:** Is the existing arrangement of voluntary compliance with industry reliability rules sufficient to ensure reliability of the bulk power transmission system? If not, why not, and has reliability been jeopardized by violations of the existing bulk power reliability standards?

**Response:** The existing arrangement of voluntary compliance with industry consensus reliability rules is not sufficient to ensure reliability of electric supply in a deregulated electric power supply industry.

The demonstrated success of the established system of consensus rules and voluntary compliance was made possible by an industry structure that made reliability, at the same time, both a high priority and low-risk activity. Simply stated, stable earnings on rate base, in conjunction with the obligation to serve, favored utility investment in infrastructure. While additional infrastructure certainly created a degree of redundancy, that same redundancy contributed substantially to the reliability of the system.

Voluntary compliance worked in the regulated environment because consumers were much more tolerant of the additional cost of redundant facilities than they were of interruptions in supply. Further, the vertically integrated electric utility was the single point of consumer contact with the industry. In addition to the economic incentives to assure reliability, each utility had a very strong political and public relations incentive to operate reliably.

Deregulation of generation essentially destroyed the "habitat" necessary for the survival of consensus rules and voluntary compliance. No rational investor will intentionally construct redundant facilities in a market supposedly designed to force prices toward marginal production costs. Rather, rational investors will try to match supply with demand as closely as possible. As demand grows, investors will first raise prices based on "scarcity rents" and then construct additional facilities only when the demand is sufficient to assure a competitive return on investment dollars. Thus, deregulation demands mandatory compliance with government-imposed rules and standards.

**Question No.2:** What can FERC do under existing authorities to address reliability concerns?

**Response:** Without performing a comprehensive legal analysis, MID believes that the FERC has the legal authority to establish essentially self-regulating reliability organizations on a regional basis.

**Question No.3:** If FERC has the authority to establish and enforce reliability standards, may FERC delegate such authority to a self-regulating reliability organization? Should it do so?

**Response:** Assuming that FERC has the authority to establish and enforce reliability standards, and further assuming that FERC may delegate such authority, MID believes that FERC should delegate its authority to a self-regulating reliability organization ("SRRO"), subject to FERC oversight and periodic review and monitoring.

All legal and political issues aside, establishing and enforcing reliability standards is, in fact, a time-intensive chore best handled by autonomous regional organizations dedicated to the purpose. While all power supply systems share similar electrical characteristics, it is nonetheless true that each existing power supply system incorporates unique regional design characteristics. Optimal reliability requires rules and standards that understand and respect these unique characteristics. Therefore, a clear simple rule that applies to one specific region can be rendered incomprehensible if forced to be part of a "one size fits all" national regulation.

**Question No.4:** Are there elements in CECA, or other electric reliability legislative language, which can, with or without modification, be used in a rulemaking?

**Response:** No Comment.

**Question No.5:** What should the relationship be between Regional Transmission Organizations, as advanced in FERC Order No.2000, 65 FR 809 (January 6, 2000), FERC Stats. & Regs. para. 31, 089 (2000), and an Electric Reliability Organization as proposed in CECA?

**Response:** To answer this question we must first ponder whether any good purpose is served by making a simple issue complex. MID believes that the fewer overlapping reliability organizations the better. But, if we must live with a multiplicity of reliability organizations then (1) each ERO should establish and enforce rules regarding interactions between member RTOs as well as set overall reliability policy, (2) each RTO should rely on ERO policy to establish and enforce rules regarding interactions among member Control Areas and, (3) each Control Area should rely on ERO policy to establish and enforce rules relating to interactions among interconnected vertically integrated utilities, power producers, distribution companies, and consumers.

In a better world, MID believes the job could be more efficiently done by carefully coordinating RTO and ERO reliability functions in order to eliminate redundancy of functions.

**Question No.6:** How should the responsibilities and roles of FERC and the States be addressed in a rulemaking?

**Response:** A rulemaking must, of course, clearly set out the responsibilities and roles of FERC and the responsible regulatory authorities in States. This is a simple matter of how best to articulate reasoned decisions. Of substantially greater importance are the factual bases for those decisions. MID believes that responsibilities and roles must be based on mutual understandings of the authority of the FERC and each of the States with respect to the provision of electric service to consumers. MID believes that FBRC should not only accept the rights of the States to enact legislation enabling qualified entities to provide electric service to consumers but should also defer, to the greatest extent possible, to the responsible decisions of local regulatory authorities. Simply stated, MID believes that local accountability is, by far, the best incentive for a utility to provide reliable, economic service. FERC should not make any rules, or reserve for itself any responsibilities, that serve to diminish, or frustrate local authority and accountability.

**Question No.7:** Recognizing the international nature of the interconnected transmission grid, how could implementation of mandatory reliability standards be coordinated with Canada and Mexico?

**Response:** No Comment

In addition to the above, commenters are encouraged to discuss, comment on, and make suggestions on other electric reliability issues that may be relevant to DOE's consideration of a rulemaking. Comments submitted pursuant to the Notice of Inquiry will be deemed public and will not be treated as confidential.

**Local Issues:** As previously mentioned, deregulation demands a reliability scheme based on mandatory compliance with arms-length rules and regulations because certain, unregulated market participants obviously must place the interests of their owners and investors above the interests of consumers. However, MID believes that even a mandatory reliability system can be improved by assuring that those entities that wish to retain consumer accountability are offered the opportunity to do so.

For example, MID is a consumer-owned, vertically integrated electric utility located in Northern California. To help assure reliable service to its customers, MID owns, or otherwise controls, long-term energy production and transmission resources as well as control equipment and facilities needed to follow load and maintain voltage. Because MID is consumer-owned, it is accountable exclusively to those consumers. MID strongly believes that any mandatory reliability program must provide for MID to continue to operate in the best interests of its consumers and in accordance with the desires of its consumers as expressed through MID's locally-elected Board of Directors.

In short, a proper reliability program must recognize the value of a diverse market and the unique characteristics of each market participant.

Dated: January 4, 2000

Respectfully submitted,

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